IN THE HIGH COURT OF JUDICATURE OF BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 3581 OF 2004

Babasaheb D. Devkate ... Applicant

versus

State of Maharashtra ... Respondent

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Mr. Nitin Pradhan with Mr. S.D. Khot, for the Applicant.

Mr. K.V. Saste, A.P.P., for the Respondent.

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CORAM : A.M.KHANWILKAR,J.

16th September 2004

P.C.:

. Heard Counsel for the parties. Perused the record. The complaint as filed mentions the presence of the Applicant at the scene of offence, but no specific role is assigned to the Applicant in the said complaint. Prosecution has relied on statements of 35 witnesses. However, it is seen that out of them, only five witnesses have mentioned about the presence of the Applicant at the scene of offence. The specific

mention about the role of the Applicant is disclosed only in the statement of Babu Balu Mane. The learned A.P.P. also relied on the statement of Balabai Ramchandra Chavan. Even on fair reading of that statement, all that is mentioned is that there was dispute pending between the two factions and the witness was being threatened by Birajdar and Bajrangi families that the members of other faction will be killed. Insofar as the Applicant is concerned, it is stated that he was the constable at the concerned police outpost but he did not show any interest in the grievance made by the parties on the specious reasoning that the matter is a civil dispute. It is further stated by this witness that the Applicant had told her that she was going to be killed by Birajdar and Bajrangi families. In other words, no specific role has been assigned to the Applicant on the date of the incident. The learned A.P.P. submits that there are other circumstances, which would indicate the involvement of the Applicant in the commission of offence. However, taking overall view of the matter, at this stage, as the investigation is complete and charge sheet has been filed and there is no likelihood of the Applicant fleeing

from the ends of justice, or, tampering with the evidence already collected, the Applicant deserves to be enlarged on bail on following conditions.

a) The Applicant is released on bail in relation to Crime No. 15/2004 registered at Umadi Police Station, Sangli, on execution of personal bond in the sum of Rs.50,000/- and two sureties in the like amount.

b) The Applicant shall not enter the jurisdiction of the concerned police station unless required by the investigating officer.

c) The Applicant shall regularly report to the Vishrambag Police Station, Sangli once in fortnight between 11 a.m. to 4 p.m. on Saturday during the pendency of the trial.

d) The Applicant shall not tamper with the evidence or influence the prosecution witnesses in any manner whatsoever.

e) The Applicant shall co-operate with the trial Court for early disposal of the case. In case the trial Court forms an opinion that the trial is being delayed at the instance of the Applicant, that can be a ground for cancellation of bail.

Application disposed of on the above terms.

(A.M.KHANWILKAR,J.)